

1/10/08 3:38:30  
P BK 123 Pg 545  
DESOTO COUNTY, MS  
W.E. DAVIS, CH. CLERK

1/10/08 3:36:49  
BK 2,843 PG 154  
DESOTO COUNTY, MS  
W.E. DAVIS, CH CLERK

PREPARED BY:  
Veritas Title Partners  
2415 W. Alabama, Suite 203  
Houston, Texas 77098  
(713) 482-2800  
(713) 482-2840 (fax)

INDEXING INSTRUCTIONS: Lot 9, Golden Oaks  
Commercial Subdivision, Plat Bok 63, Pg 45, § 29, T1S,  
R7W, DeSoto County, MS

### LOAN ASSUMPTION AND MODIFICATION AGREEMENT

**THIS LOAN ASSUMPTION AND MODIFICATION AGREEMENT** (this "Agreement"), made effective as of December 27, 2007, by and among Christian Brothers Automotive Corporation, having an address at 15995 North Barkers Landing, Suite 145, Houston, Texas 77079 ("Existing Borrower"), Mark A. Carr, having an address for notice at 15995 North Barkers Landing, Suite 145, Houston, Texas 77079, John E. Freeman, having an address for notice at 13310 Beamer Road, Houston, TX 77089 (collectively the "Existing Guarantors"), **Christian Brothers Southaven, LP**, having an address for notice and service at 15995 North Barkers Landing, Suite 145, Houston, Texas 77079 ("New Borrower"), and Trustmark National Bank, whose regular mailing address is P.O. Box 38989, Germantown, Tennessee 38183-0989 (together with its successors and assigns, "Lender").

### WITNESSETH:

**WHEREAS**, as of December 14, 2006, Lender extended a loan to Existing Borrower in the original principal amount of ONE MILLION THIRTY ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,031,500.00) (the "Loan");

**WHEREAS**, the Loan is evidenced by that certain Promissory Note, dated as of December 14, 2006 (the "Closing Date"), made by Existing Borrower in favor of Lender (the "Note");

**WHEREAS**, the Note is secured by, among other things, (i) that certain Construction Deed of Trust (the "Security Instrument"), dated as of the Closing Date, given by Existing Borrower to T. Harris Collier, III, as trustee, for the benefit of Lender, recorded January 23, 2007 at 3:01 p.m. in Book 2,648, Page 126, in the land records of the Chancery Clerk of DeSoto County, Mississippi, encumbering the real property described on Exhibit A attached hereto and made a part hereof, together with all improvements thereon and certain other property described in the Security Instrument (collectively, the "Property"), (ii) that certain Assignment of Rents dated as of the Closing Date and recorded January 23, 2007 at 3:02 p.m. in Book 118, Page 234, in the land records of the Chancery Clerk of DeSoto County, Mississippi (the "Assignment of Leases and Rents"), and (iii) the documents and instruments listed on Exhibit B attached hereto and made a part hereof (the Note, the Security Instrument, the Assignment of Leases and Rents, the other documents and instruments listed on Exhibit B, together with any other documents and instruments relating to the Loan, whether now or hereafter existing, as the same from time may to time may be amended, extended, consolidated, renewed or replaced, collectively, the "Loan Documents");

Landmark

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**WHEREAS**, subject to (a) the assumption and ratification by New Borrower of Existing Borrower's obligations under the Loan Documents, and (b) Existing Guarantors' execution and delivery of the Reaffirmation of Guaranty, Lender is willing to consent to the transfer of fee title to the Property to New Borrower.

**NOW, THEREFORE**, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Consent to Transfer of the Property and Notice and Opportunity to Cure Defaults. Lender hereby consents, pursuant to the provisions of any of the Loan Documents requiring Lender's consent, to the transfer of fee title to the Property from Existing Borrower to New Borrower. Lender agrees to provide the New Borrower and the Existing Borrower with the notice of default and opportunity to cure such default that Lender is obligated to provide the Existing Borrower pursuant to the terms of the Loan Documents.

2. Assignment and Assumption of Loan. For and in consideration of Lender's consent to the transfer of the Property and the extension and modification of the loan terms, Existing Borrower hereby assigns to New Borrower, and New Borrower hereby assumes and agrees, for the benefit of Lender and its successors and assigns, to be bound by, observe and perform, all past (to the extent unsatisfied), present and future liabilities, terms, provisions, covenants and obligations of Existing Borrower under the Loan Documents, and New Borrower agrees that it will be bound by all of such terms and provisions, promptly pay all such liabilities and promptly observe and perform all such covenants and obligations, with the same force and effect as if New Borrower had originally executed and delivered the Loan Documents instead of Existing Borrower. Reference in any Loan Document to Existing Borrower, shall now be deemed to be a reference to New Borrower. The Loan Documents are modified as specifically provided in this Agreement, but none of the Loan Documents are otherwise altered in any manner whatsoever.

3. No Release of Existing Borrower or Existing Guarantors. Neither Existing Borrower nor Existing Guarantors are released from any of their liabilities and obligations under the Loan Documents.

4. Agreements of New Borrower and Existing Borrower. The Existing Borrower and New Borrower each hereby acknowledges and agrees that:

(a) all of the terms, provisions, covenants, representations, warranties, conditions and stipulations contained in the Loan Documents, and all of Existing Borrower's obligations under the Loan Documents, as assumed hereunder, are hereby ratified and confirmed by New Borrower in all respects, and shall continue to apply with full force and effect to New Borrower from and after the date hereof;

(b) all of the representations and warranties made by Existing Borrower under the Loan Documents shall be deemed to be remade by New Borrower as of the date hereof with respect to all matters specified therein and with respect to this Agreement fully as if set forth herein, all of which remain true and correct;

(c) as of the date hereof, the obligations of New Borrower under the Loan Documents, as assumed hereunder, are not subject to any reduction, limitation, impairment or

termination for any reason, including, without limitation, any claim of waiver, release, surrender or compromise;

(d) as of the date hereof, there are no offsets, defenses or counterclaims to the obligations under the Loan Documents from which Existing Borrower has been released and which have been assumed by New Borrower hereunder;

(e) as of the date hereof, no default under any of the Loan Documents and no event which, with the giving of notice, the passage of time, or both, would constitute a default under any of the Loan Documents, has occurred and is continuing; and

(f) none of the obligations of the Existing Borrower and Existing Guarantors under any of the Loan Documents have been released or waived by the Lender.

5. Liability of Guarantors. Guarantors acknowledge and agree that his obligations under the Guaranty may be affected by this Agreement and the transfer of the Property to the New Borrower and agrees and confirms that he shall continue to be bound by those obligations and liabilities contained in the Guaranty.

6. Release of Lender. Existing Borrower, Existing Guarantors and New Borrower hereby release, relinquish, discharge and waive any and all claims, demands, actions, causes of actions, suits, debts, costs, dues, sums of money, accounts, covenants, contracts, controversies, agreements, promises, trespasses, damages, judgments, executions, expenses and liabilities whatsoever, known or unknown, at law or in equity, irrespective of whether such arise out of contract, tort, violation of laws or regulations or otherwise, which Existing Borrower, New Borrower or Existing Guarantors (and their respective successors, assigns, legal representatives, heirs, executors or administrators) ever had, now have or hereafter can, may or shall have against Lender or Lender's officers, directors, employees, representatives, agents, trustees, shareholders, partners, members, contractors, advisors, attorneys, subsidiaries, affiliates, predecessors, successors or assigns by reason of any matter, cause or thing whatsoever from the beginning of the world to and including the date of this Agreement arising out of, relating to, or in connection with, the Loan, the Loan Documents, the Property, this Agreement or the transactions contemplated hereunder, whether known or unknown as of the date hereof.

7. Conditions Precedent. Notwithstanding any provision to the contrary in this Agreement, the effectiveness of the respective consents and directives granted or expressed by Lender within this Agreement shall be subject to the fulfillment of the following conditions to the satisfaction of Lender:

(a) Lender shall have received a T 38 endorsement to the policy of title insurance insuring Lender's interest in the Property (the "Endorsement");

(b) Lender shall have received either (i) amendments to the UCC Financing Statements described on Exhibit B in form satisfactory to Lender to reflect the assumption of the Loan by New Borrower and evidence of the filing thereof in the appropriate filing offices; or (ii) UCC Financing Statements in form satisfactory to Lender to reflect the perfection of liens in favor of Lender in connection with the assumption of the Loan by New Borrower and evidence of the filing thereof in the appropriate filing offices

(c) no Event of Default shall exist under any of the Loan Documents; and

(d) all fees and expenses of Lender, including, without limitation, all reasonable attorneys' fees and expenses, in connection with this Agreement and the transactions contemplated hereby shall have been paid in full.

8. Same Indebtedness; Priority of Liens Not Affected. This Agreement and the execution of other documents contemplated hereby do not constitute the creation of a new debt or the extinguishment of the debt evidenced by the Loan Documents, nor will they in any way affect or impair the liens and security interests created by the Loan Documents, which New Borrower acknowledges to be valid and existing liens on and security interests in the Property. New Borrower agrees that the lien and security interests created by the Security Instrument continue to be in full force and effect, unaffected and unimpaired by this Agreement or by the transfer of the Property or any collateral described in financing statements filed in connection with the Loan Documents and that said liens and security interests shall so continue in their perfection and priority until the debt secured by the Loan Documents is fully discharged.

9. Satisfaction of Conditions Precedent. The delivery of a fully executed original counterpart of this Agreement by Lender to New Borrower shall constitute conclusive evidence that all conditions precedent to the effectiveness of this Agreement and the consents set forth herein have been completed to the satisfaction of Lender or waived by Lender.

10. General Provisions.

(a) Definition of Loan Documents. Each of the Loan Documents is hereby modified to the extent necessary so that the term "Loan Documents," as such term may be used therein, shall be deemed to include this Agreement.

(b) Rights Cumulative. Lender's rights under this Agreement shall be in addition to all of the rights of Lender under the Note and the other Loan Documents.

(c) Methods of Enforcement. This Agreement is subject to enforcement by Lender at law or in equity, including, without limitation, actions for damages or specific performance.

(d) Costs of Enforcement. In the event that Lender shall retain the services of an attorney or any other consultants in order to enforce this Agreement, or any portion hereof, Existing Borrower, New Borrower, and Existing Guarantors each agree to pay to Lender any and all costs and expenses, including, without limitation, reasonable attorneys' fees, costs and disbursements, incurred by Lender as a result thereof.

(e) Further Assurances. Each of Existing Borrower, New Borrower and Existing Guarantors agree to execute and deliver all such documents and instruments, and do all such other acts and things, as may be reasonably required by Lender in the future to perfect, assure, confirm or effectuate the assignment by Existing Borrower and the assumption by New Borrower contemplated by and set forth in this Agreement.

(f) Reliance. Lender would not have consented to the transfer of the Property and the other transactions specified herein without New Borrower, Existing Borrower and Existing Guarantors entering into this Agreement. Accordingly, New Borrower, Existing

Borrower and Existing Guarantors intentionally and unconditionally enter into the covenants and agreements as set forth above and understand that, in reliance upon and in consideration of such covenants and agreements, Lender has consented to the transfer of the Loan and the Property and, as part and parcel thereof, specific monetary and other obligations have been, are being and shall be entered into which would not take place but for such reliance.

(g) Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original instrument and all of which together shall constitute a single instrument. The failure of any party to execute this Agreement or a counterpart hereof shall not relieve the other parties from their obligations hereunder.

(h) Rule of Construction. Each of the undersigned parties is represented By counsel and has had ample opportunity to seek legal advice concerning this Agreement, and consequently, the rule of construing ambiguities and unclear provisions in favor of the non-drafting party will not apply to the interpretation of this Agreement.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

**EXISTING BORROWER:**  
**CHRISTIAN BROTHERS AUTOMOTIVE CORPORATION**

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BK 123 Pg 551

IN WITNESS WHEREOF, the parties hereto have executed this Loan Assumption and Ratification Agreement as of the day and year first above written.

**EXISTING BORROWER:**  
**CHRISTIAN BROTHERS AUTOMOTIVE CORPORATION**

By: \_\_\_\_\_  
Mark A. Carr, President

**NEW BORROWER:**  
**CHRISTIAN BROTHERS SOUTHAVEN, LP**  
BY: Christian Brothers Management, LLC  
Its sole general partner

By: \_\_\_\_\_  
Mark A. Carr, President

**EXISTING GUARANTOR:**

\_\_\_\_\_  
MARK A. CARR

**EXISTING GUARANTOR:**

\_\_\_\_\_  
JOHN E. FREEMAN

**LENDER:**  
**TRUSTMARK NATIONAL BANK**

By:   
Name: Robert E. Arline, Jr.  
Title: Senior Vice President

STATE OF TEXAS §

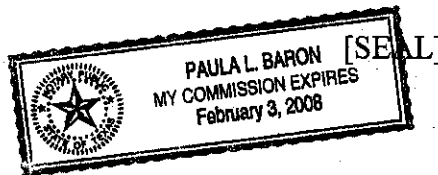
BK 123 Pg 552

COUNTY OF HARRIS §

On this 27th day of December, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Mark A. Carr, President of Christian Brothers Automotive Corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same in the capacity therein indicated.

Witness my hand and official seal.

*Paula L. Baron*  
Notary Public



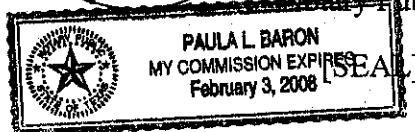
STATE OF TEXAS §

COUNTY OF HARRIS §

On this 27th day of December, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Mark A. Carr, President of Christian Brothers Management, LLC, the sole general partner of Christian Brothers Southaven, LP, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same in the capacity therein indicated.

Witness my hand and official seal.

*Paula L. Baron*  
Notary Public



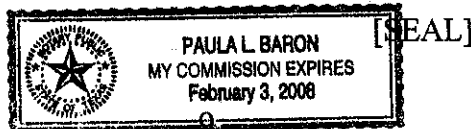
STATE OF TEXAS §

COUNTY OF HARRIS §

On this 27th day of December, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Mark A. Carr, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same in the capacity therein indicated.

Witness my hand and official seal.

*Paula L. Baron*  
Notary Public





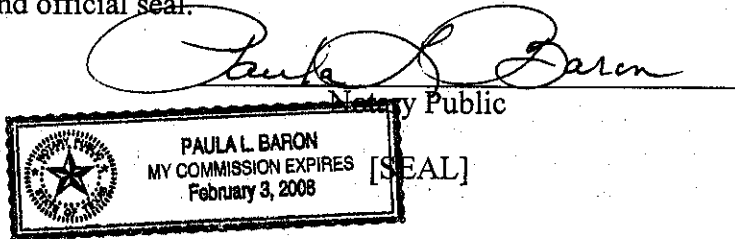
Bk 123 Pg 553

STATE OF TEXAS §

COUNTY OF HARRIS §

On this 24<sup>th</sup> day of December, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared John E. Freeman, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same in the capacity therein indicated.

Witness my hand and official seal.



STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

On this \_\_\_\_ day of December, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same in the capacity therein indicated.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

[SEAL]

Bk 123 Pg 553 A.

STATE OF TEXAS §

COUNTY OF HARRIS §

On this \_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared John E. Freeman, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same in the capacity therein indicated.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

[SEAL]

STATE OF Tennessee §COUNTY OF Shelby §

On this 27<sup>th</sup> day of December, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert Arline Jr., SVP of Trustmark Bank, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same in the capacity therein indicated.

Witness my hand and official seal.

Tammy Chism  
Notary Public

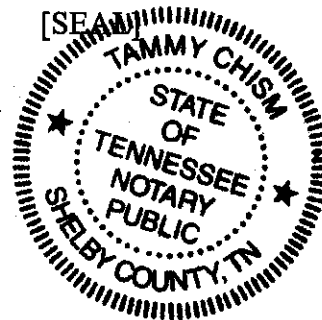


EXHIBIT A

Description of the Property

Address: 1676 Goodman Rd. East, Southaven, MS 38671

Legal description:

A 0.83, more or less, acre tract of land being known as Lot 9 of Golden Oaks Commercial Subdivision (plat book 63, page 45) and being located in the southeast quarter of section 29, township 1 south, range 7 west of the Chickasaw Meridian, City of Southaven, DeSoto County, Mississippi and being more particularly described as follows:

Commencing at a 1/2" steel pipe set at the southeast corner of Golden Oaks Subdivision (plat book 63, page 45); thence, along the north right of way line of Goodman Road (a.k.a. Mississippi Highway 302) (right of way varies), south 84°55'22" west, a distance of 99.18' to a 1/2" steel pipe set; thence, continuing along said right of way line, north 89°29'14" west, a distance of 51.10' to a 1/2" steel pipe set in the east right of way line of Golden Oaks Loop East (68' right of way); thence, along said right of way line, north 00°51'46" west, a distance of 241.59' to a 1/2" steel pipe set; thence, departing said right of way line and along the south line of Lot 8 of said subdivision, north 89°08'25" east, a distance of 150.00' to a 1/2" steel pipe found; thence, along the west line of Whitehaven Church Of Christ, Inc. (deed book 299, page 109), south 00°51'46" east, a distance of 235.52' to the point of beginning. Containing 0.83 acres, more or less, and being subject to all codes, covenants, easements, revisions, restrictions, regulations, and rights of way of record.

EXHIBIT B

Bk 123 Pg 553C

Loan Documents

All of the Loan Documents, unless otherwise expressly stated, are dated as of the Closing Date and are from Existing Borrower to Original Lender.

1. The Note (as defined in the body of this Agreement).
2. The Security Instrument (as defined in the body of this Agreement).
3. The Guaranty (as defined in the body of this Agreement).
4. Assignment of Leases and Rents(as defined in the body of this Agreement).
5. UCC-1 Financing Statement, listing Existing Borrower as debtor and Original Lender as secured party, filed for record at the Office of the Secretary of State of Texas.